



**STATE OF ILLINOIS**

**HUMAN RIGHTS COMMISSION**

**IN THE MATTER OF**

**Joe L. Freeman,**

**Complainant**

**and**

**Sta-Ben Enterprises, Inc. d/b/a**

**McDonald's,**

**Respondent**

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**CHARGE NO.: 1999 CF2611**

**EEOC NO.: 21B 992045**

**ALS NO.: 11267**

**RECOMMENDED ORDER AND DECISION**

This matter comes before the Commission on Respondent's Motion to Dismiss ("Motion"), filed on August 13, 2001. Complainant did not file a response to the Motion. No reply was required from Respondent. There is no further activity in this case reflected in the record. It is now ready for disposition.

**Statement of the Case**

The complaint in this case was filed on Complainant's behalf by the Illinois Department of Human Rights on May 17, 2000. Respondent filed its verified answer on June 14, 2000. A scheduling order was entered on July 6, 2000. At that time, both parties were represented by counsel. Although the discovery process was initiated in a timely fashion and appeared to be proceeding smoothly, Complainant's counsel filed a motion to withdraw on April 12, 2001. The motion to withdraw was granted on May 3, 2001 and Complainant was given the opportunity to file a new appearance. This was never done. Complainant did not appear at regular motion calls on July 9, 2001, August 6, 2001, September 25, 2001 and February 14, 2002. Respondent was given leave to file a motion to dismiss on August 6, 2001. Complainant did not participate in the briefing of the Motion after it was filed.

### **Findings of Fact**

1. Respondent, represented by counsel, was properly served with notice of this matter and timely filed its verified answer.
2. Although Complainant was initially represented by counsel in this matter, he is no longer represented and has failed to participate in the briefing of the Motion. Moreover, he has never appeared at any motion call after the withdrawal of counsel and has not filed a new appearance. He has not filed any notice advising the Commission that his address has changed from that found in the record of this case.

### **Conclusions of Law**

1. Complainant is an “aggrieved party” and Respondent is an “employer” as those terms are defined by the Illinois Human Rights Act, 775 ILCS 5/1-103(B) and 5/2-101(B) respectively.
2. The Commission has jurisdiction over the parties and the subject matter of this action.
3. The Commission is authorized to dismiss complaints with prejudice due to “the failure of a party to prosecute his or her case ... .” Illinois Human Rights Act, 775 ILCS 5/8A-102(I)(6).
4. Because Complainant has failed to take any action with regard to this case, there has been a failure “to prosecute his or her case” on the part of Complainant, thereby requiring dismissal of the complaint with prejudice.

### **Discussion**

It is a fundamental principle governing practice before this Commission that it is the singular responsibility of complainants to diligently pursue the disposition of the cases once they are docketed with the Commission. In this case, Complainant has not participated in the prosecution of it in any meaningful fashion. Because of the passage of time with no effective action

on the part of Complainant, it is recommended that this case now be dismissed because of the failure of Complainant to prosecute his case.

**Recommendation**

It is recommended that Respondent's Motion be granted and this case be dismissed with prejudice pursuant to the authority granted to the Commission in the Illinois Human Rights Act at 775 ILCS 5/8A-102(D)(6).

HUMAN RIGHTS COMMISSION

ENTERED:

May 16, 2002

BY: \_\_\_\_\_

DAVID J. BRENT  
ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION

**Service List for Freeman #11267 as of 5/16/02:**

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